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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,872	06/11/2001	Frank A. Ferraro	129-3	2642

7590 09/09/2003
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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/878,872

Applicant(s)

FERRARO ET AL.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 and 51-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48, 51-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 6/20/03.

Claim Objections

2. Claims 37 and 78 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 7-14, 19-52, 57-64, 69-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,681,378 to Hellman, III in view of USP 5,992,953 to Rabinovitz and USP 4,436,355 to Fortune.

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Hellman, III discloses a moving cart assembly comprising all the elements recited in the above listed claims including a plurality of interlocking, vertically stackable storage modules forming a moving cart, each module comprising a frame having two vertical sides, and a horizontal support, means for enclosing the interior of each module, moveable supports to facilitate movement of the cart assembly. The differences being that Hellman, III does not disclose the frame being integrally formed, the moveable supports capable of supporting at least about 75 pounds each, the drawer having rails spaced to support at least two different sizes of hanging files, the support ribs are vertically tapered, the frames are vertically tapered, the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or polypropylene structural foam, or a structural foam plastic, a plurality of interlocking vertically stackable storage modules, each module having a frame, drawer means for enclosing the interior of each of the modules to form a plurality of enclosure, said modules comprising a plurality of receptacles and protrusions, such that adjacent modules are vertically interconnected with a protrusion from one module received in a corresponding receptacle of an adjacent module, means for securing the modules comprising an elongated member which passes vertically through portions of modules or of all modules of a cart, the securing means comprising a plurality of tie-rods, means for locking the drawer enclosing means, the frame being an integrally molded element of a plastic material.

Rabinovitz and Fortune, each teaches the idea of providing an integrally formed frame having two vertical sides and a horizontal support, with Rabinovitz further provides a back section, in order to providing a sturdy enclosure for electronic equipment. Therefore, it would

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have been obvious to modify the structure of Hellman, III by having the frame being integrally formed and providing a back section in order to providing a sturdy enclosure, as taught by Rabinovitz, since both teach alternate conventional modules structure, used for the same intended purpose of storing electronic equipment, thereby providing structure as claimed.

Fortune discloses a modular assembly comprising a plurality of interlocking vertically stackable storage modules, each module having a frame, drawer means for enclosing the interior of each of the modules to form a plurality of enclosure, said modules comprising a plurality of receptacles and protrusions, such that adjacent modules are vertically interconnected with a protrusion from one module received in a corresponding receptacle of an adjacent module, means for securing the modules comprising an elongated member 82 which passes vertically through portions of modules or of all modules of a cart, the securing means comprising a plurality of tie-rods 82, means for locking the drawer enclosing means, such as shown in Fig 8, the frame being an integrally molded element of a plastic material in order to securely connecting the modules together. Therefore, it would have been obvious to modify the structure of Hellman, III, as modified, by providing a plurality of interlocking vertically stackable storage modules, each module having a frame, drawer means for enclosing the interior of each of the modules to form a plurality of enclosure, said modules comprising a plurality of receptacles and protrusions, such that adjacent modules are vertically interconnected with a protrusion from one module received in a corresponding receptacle of an adjacent module, means for securing the modules comprising an elongated member which passes vertically through portions of modules or of all modules of a cart, the securing means comprising a plurality of tie-rods, means for locking the drawer enclosing means the frame being an integrally molded element of a plastic

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material in order to securely connecting the modules together, as taught by Fortune, since both teach alternate conventional plurality of modules structure, connecting together, thereby providing structure as claimed.

In regard to the moveable supports having a load bearing capacity of at least 75 pounds, it would have been obvious and well within the level of one skill in the art at the time the invention was made to provide the moveable supports of Hellman, III, as modified, with a load bearing capacity of at least 75 pounds, since it involves only routine skill in the art to provide modify the moveable supports for various load bearing capacity. In regard to the drawer having rails spaced to support at least two different sizes of hanging files, it would have been obvious to provide the drawer of Hellman, III, as modified, with rails spaced in order to support files therein. In regard to the support ribs are vertically tapered and the frames are vertically tapered, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Hellman, III, as modified, would perform equally as well. In regard to the drawer modules having an inside height of at least 11 inches, cabinet modules each having an inside height of at least 20 inches, the assembly comprises high density polyethylene structural foam, or polypropylene structural foam, or a structural foam plastic, it would have been an obvious matter of design choice and well within the level of one skill in the art to provide the drawer, and the cabinet at any specific dimension for its intended purpose, and the assembly at any one of the above listed material, since said listed material are well known for its intended usage and are commercially available products.

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6. Claims 2-6, 15-18, 53-56, 65-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellman, III, as modified, as applied to claims 1 and 52 above, and further in view of US 2002/0093272 to Saravis.

Hellman, III, as modified, discloses all the elements as discussed above except for the enclosing means having a pair of doors, instead of just one as disclosed, the doors are supported by hinges located either inside or outside the enclosure, the door having an identification slot, vertically tapered support ribs on the inside and outside surfaces of the sides, tapered frames.

Saravis discloses a cart assembly having vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames, drawer and door for enclosing the interior of the module. Therefore, it would have been obvious to modify the structure of Hellman, III, as modified, by providing and vertically extending support ribs on the inside and outside surfaces of the sides in order to increase the overall strength of the frames, and drawer and door for enclosing the interior of the module, as taught by Saravis, since both teach alternate conventional storage assembly structure, thereby providing structure as claimed. In regard to vertically tapered support ribs on the inside and outside surfaces of the sides, and tapered frames, it would have been an obvious matter of design choice to provide the support ribs and the frames being vertically tapered, since applicant has not disclosed the criticality of having the ribs and frames being tapered, and it appears that the ribs and frames of Hellman, III, as modified, would perform equally as well.

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Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

HVT *HVT*
September 8, 2003

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lanna Mai